

The Specificity of Procedural Provisions for Human Trafficking Crimes Under Law N° 23-04 on the Prevention and Combatting of Human Trafficking

خصوصية الأحكام الإجرائية لجرائم الاتجار بالبشر في ظل القانون رقم 04-23 المتعلق بالوقاية من الاتجار بالبشر ومكافحته

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The date of Submission: 2025-04-19

The date of revision: 2025-06-28

The date of publication: 10-07-2025

Abstract:

Law No. 23-04 represents a partial procedural leap in Algeria's legal response to human trafficking. While it reframes the offense using precise human-centric terminology and introduces targeted procedural tools—such as digital surveillance, content takedown, and victim-based jurisdiction—it falls short of full integration with the exceptional frameworks applied to other grave crimes. The law selectively invokes special investigative powers without articulating operational protocols or extending procedural adaptations to all judicial actors. Moreover, it omits safeguards concerning electronic searches and fails to clarify jurisdictional authority across the prosecutorial hierarchy. Although it permits civil society participation and foregrounds victim protection, the procedural landscape remains fragmented. Thus, Law 23-04 is an important but incomplete foundation, necessitating further refinement to render human trafficking a procedurally self-contained offense.

Keywords: Trafficking; Human; Persons; Procedures; Prosecution.

المخلص:

يُعدّ القانون رقم 04-23 خطوة إجرائية جزئية في سياق تعزيز الردّ التشريعي الجزائري على جرائم الاتجار بالبشر. فبينما أعاد توصيف الجريمة بمصطلحات دقيقة تُعلي من مركزية الضحية، واستحدث أدوات إجرائية نوعية كالمراقبة الرقمية، وسحب المحتوى، وتحديد الاختصاص المحلي بناءً على إقامة الضحية، إلا أنه لم يبلغ مستوى التماثل الكامل مع الأطر الإجرائية الاستثنائية المقررة لغيره من الجرائم الجسيمة. إذ اكتفى بإحالات جزئية إلى وسائل التحري الخاصة دون تحديد بروتوكولات تنفيذية واضحة، ولم يُعمّم التوسّع الإجرائي ليشمل كافة الفاعلين القضائيين. كما غابت عن نصوصه ضمانات جوهرية كإجراءات التفتيش الإلكتروني وتحديد صلاحيات الاختصاص القضائي. ورغم إقراره لأهلية الجمعيات المدنية ومركزية حماية الضحايا، فإن البنية الإجرائية لا تزال تتسم بالتجزؤ. وعليه، يُمثّل هذا القانون أساساً مهماً، لكنه غير مكتمل، ويستلزم تعزيزاً إضافياً لترسيخ خصوصيته الإجرائية الكاملة.

الكلمات المفتاحية: الاتجار؛ البشر؛ الأشخاص؛ الإجراءات؛ المتابعة.

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Introduction:

In execution of its treaty-based obligations—most saliently its ratification of the 2000 United Nations Convention against Transnational Organized Crime (via Presidential Decree No. 02-55)¹, and the associated Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children (ratified with reservations through Decree No. 03-417)² —Algeria embarked on a normative overhaul to bring domestic criminal legislation into congruence with its international commitments.

As a preliminary measure, Law No. 09-01³ amended the Penal Code to incorporate Section Five Bis within Chapter One of Title Two, delineating human trafficking offenses under Articles 303 bis 4 through 303 bis 15, and prescribing penal consequences. Yet, the Code of Criminal Procedure remained devoid of bespoke procedural standards tailored to the prosecutorial exigencies inherent in such crimes, defaulting instead to general provisions—except where organized or transnational criminality invoked specific articles.

This lacuna stood in contrast with Algeria's constitutional doctrine (Article 154), which accords ratified treaties primacy over domestic law⁴. In response, the legislature had earlier appended procedural constructs addressing transnational organized crime (since 2004), subdivided into: (1) expanded procedural competencies—augmenting pre-existing investigatory and jurisdictional powers—and (2) novel investigative techniques—namely covert surveillance and electronic interception⁵.

Nevertheless, the substantive and procedural deficiencies persisted for over a decade, particularly regarding digital exploitation in human trafficking. This prompted the enactment of Law No. 23-04 of May 7, 2023, which abrogated Section Five Bis (via Article 75) and established an autonomous legal regime encompassing preventive, repressive, and procedurally distinct frameworks specific to human trafficking⁶.

This study confines itself to an analytical dissection of the procedural innovations codified within Chapter Five (Articles 26–39) of Law No. 23-04. The objective is to elucidate how these provisions diverge from the general procedural canon and to identify their distinct features.

¹ Presidential Decree N°. 02-55 dated February 5, 2002, ratifying with reservations the United Nations Convention against Transnational Organized Crime, adopted by the United Nations General Assembly on November 15, 2000, Official Gazette N°. 09, year 39, published on February 10, 2002.

² Presidential Decree N°03-417 dated November 9, 2003, ratifying with reservations the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime, adopted by the United Nations General Assembly on November 15, 2000, Official Gazette N°69, year 40, published on November 12, 2003.

³ Law N° 09-01 dated February 25, 2009, amending and supplementing Order N°66-156 dated June 8, 1966, concerning the Penal Code, Official Gazette N° 15, year 46, published on March 8, 2009.

⁴ Extending the local jurisdiction of judicial police officers to all the national territory in some of the cases mentioned in article 16, as amended by Act No. 06-22, amending and supplementing the AJ. These cases include the search and inspection of the above-mentioned offences, the same offences in which the legislature authorized the extension of the local jurisdiction of the public prosecutor, the investigating judge and the court.

⁵ Special investigative techniques were introduced by Act No. 06-22 of 20 December 2006, amending and supplementing Order No. 66-155 of 08 June 1966 containing the Code of Criminal Procedure, Official Gazette No. 84 of 24 December 2006, p. 4.

⁶ Article 51, paragraph 5, of the FCCC and article 65, paragraph 3, of the FCCC.

Accordingly, the central research question is posed as follows: In the absence of procedural specificity under the Code of Criminal Procedure, and given the conditional application of transnational organized crime procedures, what novel procedural attributes does Law No. 23-04 introduce for addressing human trafficking?

To interrogate this question, the study is structured into two thematic axes:

- Section I: Procedural mechanisms during the preliminary inquiry, investigation, and evidence-gathering phases.
- Section II: Procedural modalities governing the judicial investigation stage.

Section I: Procedural Framework for the Investigative Phase and the Institution of Public Prosecution

This section undertakes a bifurcated inquiry: the first examines the procedural configurations governing investigative operations and evidentiary acquisition in human trafficking cases; the second interrogates the mechanisms through which public criminal action is initiated against alleged perpetrators.

A) Investigative and Evidentiary Mechanisms

In accordance with Article 36 of Law No. 23-04, which articulates Algeria's normative approach to the prevention and suppression of human trafficking, the legislature has expressly endorsed the recourse to specialized investigatory techniques, as codified within the amended Code of Criminal Procedure. These methods were substantively incorporated by Law No. 06-22 of December 20, 2006, which augmented Chapter II by appending two pivotal investigative regimes:

Chapter IV – "On the interception of correspondence, audio recording, and photographic surveillance", codified in Articles 65 bis 5 to 65 bis 10;

Chapter V – "On infiltration operations", delineated across Articles 65 bis 11 to 65 bis 18.

Beyond these traditional investigative modalities, Law No. 23-04 innovatively extends the permissible scope of procedural tools by empowering judicial police officers to employ advanced evidence-gathering techniques tailored to the cyber-mediated dynamics of trafficking networks. These include: electronic infiltration, digital site tracing, and online reporting infrastructures.

Moreover, the law articulates specific procedural deviations concerning the search of residential premises, further broadening the spectrum of investigatory prerogatives afforded to law enforcement authorities. The following subsections will elucidate the exceptional procedural competencies conferred upon the judicial police under this specialized legislative framework.

1. Electronic Infiltration

Pursuant to Article 32 of Law No. 23-04, judicial police officers—acting under the supervision and prior authorization of the Public Prosecutor or Investigating Judge—are permitted to engage in electronic infiltration operations within one or more digital infrastructures or telecommunication networks. The objective is to surveil individuals suspected of violating the provisions of the law through simulated interaction, whereby the officer impersonates a participant or facilitator in the offense.

This provision reflects a notable legislative advancement by legitimizing a highly specialized and covert method of cyber-penetration aimed at dismantling illicit trafficking

circuits. Nevertheless, the absence of detailed procedural safeguards and technical protocols within Law No. 23-04 itself renders its implementation partially reliant on the general framework established by Articles 65 bis 11 to 65 bis 18 of the Code of Criminal Procedure, which pertain to traditional (non-digital) infiltration¹.

Given the inherently distinct nature of virtual environments, electronic infiltration necessitates both digital expertise and dedicated cyber-infrastructure. Unlike conventional infiltration—which operates in physical settings—its cyber variant requires officers to possess advanced competencies in information systems, encryption, and online behavioral dynamics. Thus, the law's silence on procedural nuances introduces interpretive ambiguity regarding applicable legal guarantees and operational boundaries².

Furthermore, the second paragraph of Article 32 prohibits any inducement or provocation by law enforcement that might instigate the commission of an offense with the purpose of evidence extraction. Such conduct, if present, would vitiate the legitimacy of the entire investigative procedure.

2. Geolocation Surveillance

Article 33 of Law No. 23-04 introduces geospatial surveillance as a legally sanctioned investigative tool. Under judicial oversight, the judicial police may be authorized—contingent on reasonable suspicion—to determine the real-time or historical location of the suspect, victim, implicated tools, or other crime-related elements³. This may be achieved via digital tracing methods such as IP triangulation⁴, mobile signal mapping, GPS satellite feeds, or other advanced information and communication technologies.

While this provision acknowledges the necessity of spatial intelligence in combatting trafficking networks—especially those involving victim displacement and digital anonymity—it remains silent on the procedural guarantees or limitations accompanying the deployment of such technology. The absence of clear parameters concerning proportionality, duration, and judicial review may pose challenges to legal certainty and individual rights, particularly given the invasive nature of constant digital geolocation.

3. Electronic Reporting and Public Outreach Mechanisms

Article 34 of Law No. 23-04 institutionalizes the integration of digital technologies into the procedural arsenal of the specialized judicial police, granting them the prerogative to establish online systems and digital platforms enabling the public to report human trafficking

¹ Defined in article 65 bis, article 12 of the amended and complete ISG: "Leakage means the supervision by an officer or the assistance of the judicial police, under the responsibility of the judicial police officer responsible for coordinating the operation, of persons suspected of committing a crime or misdemeanor by indicting them as having acted with them, their accomplice or fear."

² Amer Jawhar, "Procedural Provisions for Human Trafficking Crimes in Light of Law 23/04," Journal of Legal and Social Sciences, Volume 8, Issue 3, September 2023, pp 270-281.

³ This method is also provided for in article 27 of Act No. 20-05 of 28 April 2020 on the prevention and combating of discrimination and hate speech, Official Gazette No. 25 of 29 April 2020, p. 4.

Also provided for in article 17 of Act No. 20-15 on the Prevention and Control of Abduction of Persons, Official Gazette No. 81 of 30 December 2020, p. 4.

⁴ IP protocol or so-called Internet address is an email address-like system that messages data packages over the Internet and directs them to their objectives. It is located in every electronic device connected to the Internet and consists of four parts each part consisting of four digits. The left part refers to the geographical area, and the second part to the service provider. And the third of the connected electronic device group, part IV identifies the device from which it was connected. See Brahimi Jamal, Criminal investigation into cybercrime, doctoral thesis in science, Law Specialization, University of Born Maamari-Tizi Wazu, 2018, p. 78.

offenses. These mechanisms, embedded within electronic networks, aim to facilitate real-time transmission of intelligence and encourage participatory vigilance in a domain marked by secrecy, intimidation, and fear of reprisal.

However, the deployment of such systems is not entirely discretionary. The judicial police are under a legal obligation to promptly inform the competent Public Prosecutor, who exercises hierarchical oversight over the continuity or cessation of said operations. This procedural gatekeeping ensures that the balance between investigatory efficiency and individual rights is maintained.

Further procedural innovation is enshrined in Article 35, which authorizes the judicial police to initiate public calls for information and testimony relating to ongoing investigations—again, conditional upon prior notification to the Public Prosecutor. Crucially, this article codifies a duty to safeguard the anonymity and physical security of victims and witnesses, thereby mitigating the risk of secondary victimization. Additionally, the second paragraph of Article 35 expands the scope of outreach by permitting, with written prosecutorial authorization, recourse to media and online platforms for the dissemination of search notices, descriptive alerts, and suspect imagery. This fusion of procedural law and media engagement embodies a preventive-criminal synergy appropriate to the multifaceted nature of trafficking offenses.

4. Search of Residential Premises and Procedural Omissions Regarding Custodial Measures

In a marked departure from the general safeguards delineated in Article 47 of the Code of Criminal Procedure—particularly those restricting searches to daytime hours—Article 38 of Law No. 23-04 confers authority upon judicial police officers, acting under judicial mandate, to conduct residential searches *ad libitum*, irrespective of temporal constraints, for the purpose of detecting or substantiating human trafficking offenses. This derogation reflects a legislative intent to prioritize operational immediacy over privacy considerations in the context of crimes of a particularly clandestine and transnational nature.

However, a critical procedural asymmetry remains: while the legislator waived temporal restrictions, it did not extend similar flexibility to the requirement of the occupant's presence during the execution of the search. This selective derogation raises doctrinal concerns about the coherence of procedural guarantees and suggests a missed opportunity to harmonize exceptional investigative needs with due process safeguards.

Furthermore, the law remains conspicuously silent on procedural extensions concerning *garde à vue* or custodial interrogation in cases involving human trafficking. Consequently, reference must be made to the residual framework governing organized transnational crime under Articles 51(5) and 65(3) of the Code of Criminal Procedure, which permit the tripling of custody durations under written authorization by the Public Prosecutor. Although functionally applicable, this default reliance on transnational crime provisions underscores the partial legislative integration of trafficking-specific procedural architecture.

B. Procedural Framework for the Initiation of Public Prosecution and Collective Legal Standing

Article 27¹ of Law No. 23-04 reaffirms the doctrinal premise of prosecutorial ex officio action, aligning with the general principles of Algerian criminal procedure. The provision stipulates that upon knowledge of an act constituting human trafficking, the Public Prosecutor is legally bound to initiate criminal proceedings without awaiting formal accusation or external prompting. This automatic activation mechanism reflects the high degree of public interest and urgency attached to such crimes.

Nevertheless, Article 39 introduces a normative innovation by expanding standing beyond the traditional bounds of individual plaintiffs. Accredited national associations and bodies engaged in the promotion of human rights, and in the protection of women, children, and persons with disabilities, are accorded the procedural right to lodge complaints and to be constituted as civil parties. This formal inclusion of civil society actors signals a paradigm shift toward collective litigation capacity and underscores the recognition of trafficking as not only a penal issue but a societal affront necessitating multi-actor legal mobilization.

Section II: Procedural Singularities in the Judicial Investigation and Adjudication of Human Trafficking Offenses

This section delineates the procedural instruments embedded in the judicial phase of criminal proceedings concerning human trafficking, addressing both the investigatory prerogatives conferred upon judicial authorities and the jurisdictional architecture applicable to trial proceedings². It seeks to expose the extent to which Law No. 23-04 has diverged from, or remained aligned with, the general procedural framework codified in the Algerian Code of Criminal Procedure³.

A) Investigatory Powers of the Judiciary in Human Trafficking Cases

Article 31 of Law No. 23-04 inaugurates a procedural framework that authorizes judicial authorities—during the course of a formal criminal investigation into acts constituting human trafficking—to exercise expansive, technologically-oriented investigative mandates. Specifically, the competent magistrate may:

1. Instruct digital service providers, telecommunications intermediaries, or any individual custodian of relevant digital data to disclose or transmit electronically stored information that bears evidentiary or probative relevance to the investigation, subject to coercive measures or punitive consequences as delineated in the prevailing legislation.
2. Mandate, under the same legal rubric, the immediate suppression, preservation, or functional inaccessibility of any content disseminated or hosted electronically, provided that such content constitutes, facilitates, or promotes human trafficking. The judicial order may further compel the installation of digital safeguards or technical

¹ Article 27 of Act No. 23-04 stipulates that: "The Public Prosecutor's Office shall initiate public proceedings automatically for the offences provided for in this Act."

² Article 2 of the Law on Prevention and Control of Trafficking in Human Beings defines the victim of trafficking in human beings as: Any natural person who has suffered any material, physical or moral damage resulting directly from one of the forms of human trafficking provided for in this Act regardless of gender, race, colour, descent, religion, language, nationality, national or ethnic origin or disability, Regardless of whether the offender was identified, arrested, tried or convicted.

³ Act No. 04-14 of 10 November 2004 amending and supplementing the Code of Criminal Procedure added paragraphs to articles 37, 40 and 329 concerning the determination of competence for the public prosecutor and the investigating judge, as well as for the judiciary.

configurations capable of rendering such content permanently or temporarily unavailable.

This legislative formulation epitomizes an institutionalized cognizance of the algorithmically entangled architecture of contemporary trafficking modalities, wherein illicit exploitation is operationalized within transnational cyberspatial matrices. It thereby affirms, both explicitly and by necessary implication, the indispensability of forensically robust digital evidentiary retrieval mechanisms as a foundational precondition for prosecutorial efficacy. The procedural endorsement of technologically mediated investigative instruments reflects not merely an adaptation to evolving criminal ontologies, but a paradigmatic shift toward the epistemological centrality of cyber-forensics as a *sine qua non* for dismantling clandestine networks whose infrastructures are encrypted, decentralized, and extraterritorially diffused.

B) Jurisdictional Differentiation in the Adjudicative Phase

Law No. 23-04 introduces certain jurisdictional refinements—albeit not exhaustive—specific to the criminal court seized with trafficking-related cases. However, the legislation remains silent with regard to jurisdictional adaptation for ancillary prosecutorial and quasi-judicial bodies (e.g., the Public Prosecutor, Investigating Magistrate, or judicial police). Consequently, unless the trafficking offense qualifies as an organized transnational crime, adjudication and procedural conduct revert to the general norms articulated in the Code of Criminal Procedure.

It is doctrinally presumed, however, that human trafficking, by its very criminological essence, implies multiplicity of actors and often transboundary manifestations. As such, it tends to activate the exceptional procedural mechanisms established for organized crime syndicates.

1. Personal Jurisdiction of Algerian Courts

Article 26 of Law No. 23-04 effectuates a reiterative codification of extraterritorial penal jurisdiction, albeit devoid of paradigmatic ruptures or hermeneutical recalibrations vis-à-vis conventional jurisdictional doctrines. Its lexical structure replicates, with minimal semantic divergence, the established dogma articulated under Articles 582 through 588 of the Algerian Code of Criminal Procedure.

Nonetheless, it imposes a cumulative triadic conditionality for the activation of cross-border adjudicative competence: first, the *locus delicti* must be extrinsic to the spatial sovereignty of the Algerian Republic; second, the active subject—i.e., the alleged offender—must be imbued with Algerian nationality, whether by operation of *jus sanguinis*, *jus soli*, or derivative modalities; and third, in an innovative albeit understated expansion of normative reach, the passive subject—i.e., the victim—must either possess Algerian citizenship or be a non-national with established legal residence or habitual integration within Algerian territorial jurisdiction.

This final prong, introducing *residency-based jurisdictional anchorage*, constitutes a latent reconceptualization of classical territoriality in favor of a *personae-centric adjudicatory model*. It presupposes the permeability of sovereignty in favor of a protective projection of penal authority, justified not through spatial orthodoxy but through the state's *de facto* responsibility to safeguard the human dignity of those functionally embedded within its sociolegal fabric.

Thus, while ostensibly unremarkable in its doctrinal contouring, Article 26 encapsulates an embryonic gravitation toward a jurisprudence of *functional extraterritoriality*, where jurisdiction is no longer tethered exclusively to nationality or geography, but to the ontological vulnerability and juridical embeddedness of the trafficked subject.

While this article substantially reiterates provisions already enshrined in Articles 582, 583, and 588¹ of the Code of Criminal Procedure—particularly the principle of dual criminality and the requirement of a formal complaint or report from foreign authorities—its novelty lies in its inclusion of foreign residents within the protective ambit of Algerian jurisdiction².

This is a remarkable normative extension. The phrase "a foreigner residing in Algeria" is not a mere rhetorical inclusion but a substantive expansion of the state's adjudicative reach. It implies that Algerian courts may assume jurisdiction over offenses committed abroad by foreign nationals, provided the harm is suffered by a foreigner enjoying regular, lawful residence within Algerian territory.

From a comparative legal standpoint, this development aligns Algeria with the emerging trend of functional extraterritoriality, wherein the personal jurisdiction of the forum state is triggered not only by nationality or territoriality but also by residence-based protective considerations, especially in relation to vulnerable categories of victims.

Hence, although Article 26 may superficially appear redundant vis-à-vis pre-existing procedural norms, its jurisprudential import is underscored by the deliberate expansion of prosecutorial reach and victim protection, particularly in cases where legal and physical borders no longer confine criminal activity.

2. Local Jurisdiction of the Courts

The second paragraph of Article 26 of Law No. 23-04 on the Prevention and Combat of Human Trafficking constitutes a notable deviation from the general procedural norm enshrined in Article 329³ of the amended Algerian Code of Criminal Procedure, which traditionally anchors local jurisdiction in criminal matters—particularly in misdemeanors—to the territorial locus where the offense occurred, the residence of the accused, or the place of arrest.

However, in a jurisprudentially significant shift, the anti-trafficking legislation substitutes this paradigm with a victim-centered criterion: the place of residence or domicile elected by the victim within Algerian territory becomes the determinant factor for allocating territorial jurisdiction. This redirection of procedural orientation toward the locus of victim identity and

¹ Article 588 was amended by article 23 of Ordinance No. 15-02 of 23 July 2015, amending and supplementing Ordinance No. 66-155 of 08 June 1966 containing the Code of Criminal Procedure, Official Gazette No. 40 of 23 July 2015, p. 28.

² Article 582, paragraph 2, of the Code of Criminal Procedure stipulates that: "However, follow-up or prosecution may take place only if the perpetrator returns to Algeria and is not found to have been sentenced definitively abroad and, in the case of a conviction, proves that he has served the sentence, dropped the statute of limitations or obtained pardon."

³ Article 329 of the amended and complete FZ stipulates that: "The offence shall be examined locally by the court of the place of crime or by the residence of one of the accused, their accomplices or the place of arrest, even if for some other reason the arrest took place."

stability—rather than the conduct or apprehension of the perpetrator—reflects a paradigmatic embrace of victimological principles in criminal adjudication.

This evolution aligns with modern transnational legal trends that prioritize victim access to justice, procedural convenience, and the mitigation of retraumatization risks that often accompany displacement or forced mobility of victims. It also signals the legislator's recognition that crimes of human trafficking frequently involve mobile perpetrators, shifting criminal routes, and victims who may be forcibly relocated—factors that render traditional territorial jurisdiction ill-suited to capture the complex geography of such offenses.

By predicate anchoring of adjudicatory competence in the situs of the victim's habitual residence or electively constituted domicile, the legislator institutes an idiosyncratic modality of *territoriality-in-personam*, wherein the locus of jurisdictional attachment transcends classical geospatial fixation and is instead refracted through the prism of the victim's existential and juridical embeddedness within the forum state. This epistemic reconfiguration of territorial jurisdiction constitutes a paradigmatic deviation from locus delicti orthodoxy, inaugurating a procedurally teleological architecture that privileges the continuity of judicial protection over rigid cartographic delineations.

Particularly in the context of transnational or horizontally diffuse trafficking networks—characterized by jurisdictional disaggregation and legal lacunae—such a construct enables a consolidation of prosecutorial authority and mitigates the centrifugal procedural dislocations that typically undermine coherent penal adjudication. Hence, this formulation functions not merely as a jurisdictional convenience but as an apparatus of victim-centered legal rationality, fortifying systemic responsiveness and ensuring the uninterrupted procedural vector from investigative inception to final adjudicative disposition.

Law No. 23-04 does not merely enumerate specialized procedural rules in isolation; it establishes a transversal layer of safeguards applicable at every phase of the criminal process—from the preliminary collection of evidence to full judicial adjudication. These provisions underscore a deliberate legislative strategy to institutionalize victim-centric justice and reinforce procedural integrity.

1. Mandatory Victim Identification

Article 28 emphatically mandates the identification of the victim's civil status—including their name, nationality, age, and legal capacity—throughout the entire procedural continuum. The legislator's usage of the imperative “must” indicates a **non-discretionary obligation** on all relevant actors to verify, register, and protect the victim's identity, thereby establishing a procedural anchor for subsequent rights enforcement.

This identification process also facilitates inter-agency coordination, particularly the secure exchange of data between security forces and investigative entities. Such coordination is instrumental in locating missing victims, corroborating identity across borders, dismantling trafficking rings, and establishing cross-border victim profiles essential to both prosecution and protection measures.

2. Prophylactic Non-Contact Mandates Between Victim and Alleged Perpetrator

To preempt any form of post-offense revictimization—whether through coercive intimidation, subversive psychological manipulation, or retaliatory aggression—judicial functionaries are empowered to promulgate prophylactic decrees enjoining the accused from establishing any modality of communicative or spatial proximity to the victim. This

proscription, which may encompass both direct corporeal presence and indirect digital or intermediated contact, constitutes a procedural insulation mechanism designed to preserve the psychological equilibrium and testimonial integrity of the victim.

Such protective injunctions operate with *ipso jure* extensibility, encompassing collateral actors including witnesses, informants, and whistleblowers, thereby institutionalizing a totalizing architecture of procedural immunization that transcends the singularity of victimhood. It enshrines an ecosystemic approach to evidentiary preservation wherein all nodes of the testimonial chain are afforded equal juridical shielding.

Moreover, for non-citizen victims, the legislative framework confers an exceptional right of territorial *stabilitas*, permitting their continued lawful presence within the host jurisdiction throughout the procedural lifecycle. This provision performs a bifunctional jurisprudential role: it ensures uninterrupted testimonial availability for prosecutorial purposes while simultaneously vindicating the victim's corporeal sanctity and juridical personhood under the protective canopy of the Algerian legal order.

3. Confidentiality and Procedural Shielding

The law compels judicial and investigatory bodies to take all necessary precautions to preserve the confidentiality of victim, witness, and whistleblower identities, including the concealment of personal data and case-sensitive information. This protective framework must, however, operate without undermining the fundamental procedural guarantees of the accused, most notably the principle of adversarial proceedings and the right to defense as guaranteed under the Code of Criminal Procedure.

This balancing act between confidentiality and due process is reflective of international human rights standards, especially those articulated in the Palermo Protocol and subsequent UN guidelines on the treatment of trafficking victims.

4. Differentiated Safeguards for Juridically Precarious Demographics

The legislative corpus enshrines an unequivocal imperative to implement both elevated procedural calibrations and substantive fortifications in favor of legally and socio-anthropologically vulnerable cohorts—inter alia, women, juveniles, and individuals bearing psychosocial, neurocognitive, or corporeal impairments. These population strata, situated at the confluence of structural marginalization and victimological exposure, are accorded a multilayered framework of differentiated protection that transcends mere formal equality.

Such safeguards may materialize through procedural modulations, including *in camera* judicial proceedings, trauma-informed testimonial protocols, and the deployment of forensic linguists or child-sensitive intermediaries. Concurrently, institutionalized scaffolding mechanisms—such as state-appointed legal curators, psychosocial facilitators, or specialized reception centers—are mandated to accompany and stabilize the victim's interface with the criminal justice continuum.

This normative scaffolding evidences a legislative cognizance of the intersectional vectors of subjugation endemic to trafficking crimes, wherein the compounded interplay of gendered precarity, chronological immaturity, and somatic or cognitive limitation exponentially magnifies victimhood and entrenches epistemic and procedural inaccessibility. The law thus endeavors to deconstruct these systemic asymmetries through a jurisprudence of tailored empowerment and procedural humanization.

5. Procedural Rights and Socio-Medical Support Across the Criminal Justice Continuum

In the juridical topology of anti-trafficking frameworks, the procedural architecture enshrined under Law No. 23-04 does not merely circumscribe the criminal offense of human trafficking, but expansively delineates a rights-centered model for the treatment of victims and witnesses throughout the entirety of the penal continuum. The law mandates the institution and operationalization of an integrated system of procedural and socio-medical guarantees, spanning all phases of the criminal process: from pre-investigative surveillance and intelligence gathering, through formal investigatory acts, and culminating in full judicial adjudication. This comprehensive scaffolding reflects a legislative effort to embed victimological dignity and testimonial integrity at the procedural core of anti-trafficking praxis.

A. Informed Legal Consent and Linguistic Accessibility

Central to the ethos of procedural legitimacy is the doctrine of informed consent, particularly in contexts where asymmetries of power, trauma-induced vulnerability, and linguistic or cultural dislocation impede full participation. Law No. 23-04 obliges judicial and investigatory personnel to ensure that all victims and material witnesses are apprised—clearly, comprehensibly, and in their vernacular—of their procedural posture, legal entitlements, and participatory options within the criminal justice framework.

This imperative encompasses the mandatory provision of linguistic mediators, certified interpreters, and, where culturally or ethnographically relevant, the deployment of cultural liaisons or community intermediaries. Such measures are indispensable not merely to procedural fairness, but to the preservation of the adversarial principle, the reliability of testimonial evidence, and the non-revictimization of subjects during evidentiary extraction. The law thereby operationalizes a model of "free, prior, and informed consent" that has deep roots in international human rights jurisprudence and victimological ethics.

B. Medical Referral and Psycho-Social Shelter Access

The procedural architecture of Law No. 23-04 also codifies a medico-legal and psychosocial response protocol whereby any observable or declared deterioration in the physical, psychological, or neurocognitive state of a trafficking victim obliges state authorities to initiate immediate intervention. Such intervention may consist of referrals to trauma-informed medical practitioners, emergency clinical services, or long-term rehabilitation specialists.

In cases necessitating spatial removal from conditions of continued endangerment or retraumatization, the law envisions the mobilization of secure shelter networks, including but not limited to: state-run safe houses, NGO-administered transitional housing programs, and specialized reception facilities for minors, women, or persons with disabilities. These shelters are not to be conceptualized as mere custodial enclosures but as dynamic nodes of legal accompaniment, psychological stabilization, and social reintegration.

The emphasis on medical and residential support extends to the forensic collection of evidence, ensuring that any physical or psychological assessments conducted on victims meet the dual threshold of evidentiary reliability and non-invasive methodology. Medical personnel involved must be trained in trauma-sensitive protocols and must operate within a framework

that privileges the autonomy, confidentiality, and informed participation of the individual concerned.

C. Institutionalized Security Protocols and Threat Mitigation Mechanisms

Recognizing the endemic risk of intimidation, reprisal, and coercive silencing that plagues victims and witnesses of trafficking-related offenses, the legislative drafters of Law No. 23-04 embedded within the statute a set of security imperatives. Where a credible, demonstrable threat to life, liberty, or psychological stability exists, law enforcement agencies are legally compelled to enact personalized protective measures.

Such protective measures may include, inter alia: full-time police surveillance, relocation to undisclosed or anonymized residences, implementation of no-contact orders, encrypted communication channels, and even—under exceptional circumstances—the granting of protective anonymity during trial. The procedural enforcement of these measures is not discretionary but compulsory upon the satisfaction of factual thresholds that establish risk. This reflects a move from passive victim protection to proactive threat mitigation.

Additionally, security guarantees extend to legal actors associated with the victim, including legal counsel, social workers, and case coordinators, recognizing that the targeting of peripheral support structures is a tactic frequently employed by trafficking networks to dismantle the credibility or logistical functionality of protective ecosystems.

D. Transversal Integration of Rights Across the Criminal Process

Perhaps most significantly, Law No. 23-04 envisions these procedural and socio-medical safeguards not as ancillary or episodic interventions but as **transversally integrated rights** embedded at every juncture of the criminal justice apparatus. The legal recognition of these protections is not contingent upon the formal status of the victim as a complainant, civil party, or state witness, but derives from the mere fact of their victimhood as established through credible preliminary indicators.

This transversal model challenges traditional dichotomies between procedural and substantive justice by treating medical care, shelter access, linguistic facilitation, and personal security as essential conditions for the realization of legal personhood and testimonial agency. By embedding these rights as procedural prerequisites—rather than auxiliary services—the law radically reconfigures the role of the criminal justice system from a punitive apparatus to a restorative and protective mechanism anchored in human dignity.

In sum, the procedural regime established under Law No. 23-04 sets forth a robust, multi-dimensional protective framework for trafficking victims and witnesses. While implementation gaps and resource constraints may continue to limit full operationalization, the statute's textual provisions mark a significant jurisprudential advance toward a holistic, trauma-responsive, and person-centered model of criminal justice in the Algerian anti-trafficking context.

Conclusion:

Upon exhaustive examination of the procedural architecture governing the adjudication of human trafficking offenses as articulated under Law No. 23-04 of May 7, 2023—entitled *On the Prevention and Fight Against Human Trafficking*—a number of legal, terminological, and structural observations come to the fore, revealing both commendable legislative evolutions and residual shortcomings.

First, while the Algerian Penal Code has recognized and criminalized trafficking in persons since the insertion of Section Five Bis in 2009, the present law constitutes a linguistic and conceptual refinement. The legislator's decision to adopt the terminology "human trafficking" rather than the broader and more ambiguous phrase "trafficking in persons" reflects a significant semantic shift. The latter may encompass both natural and juridical persons, potentially engendering interpretive ambiguity, whereas the former unequivocally designates natural human beings as the object of criminal exploitation, thereby narrowing and specifying the scope of legal protection.

Nevertheless, despite this conceptual advancement, the legislator appears to have faltered in harmonizing procedural treatment between human trafficking and the so-called "seven serious crimes" already endowed with dedicated procedural regimes under the Code of Criminal Procedure. Rather than according human trafficking an autonomous procedural status commensurate with its systemic gravity, the legislator opted to treat it—by default—as a mere subtype of organized or transnational crime. Thus, the application of special investigative and adjudicative measures remains conditional upon whether the trafficking offense fulfills the criteria of transnationality or organizational structure.

This contingent application represents a significant normative gap. By relegating procedural exceptionalism to a situational basis, the law overlooks the intrinsic complexity, technological entrenchment, and cross-border potentialities of virtually all trafficking cases, thereby compromising the uniformity and efficacy of legal response.

In addressing this gap, Law No. 23-04 introduced specialized procedural measures applicable to human trafficking; however, it did so selectively and without a coherent integration of the procedural apparatus available for other crimes of comparable gravity. Several procedural vacuums persist, notably in areas such as electronic search protocols, the extension of judicial police jurisdiction, and the specificity of surveillance procedures—gaps which could have been preemptively resolved through full procedural equivalency with the seven offenses already contemplated in Algerian criminal procedure.

From the foregoing analysis, a series of core conclusions may be distilled:

1. Limited but Constructive Reference to the Code of Criminal Procedure: Law No. 23-04 selectively invokes the Code of Criminal Procedure to authorize the use of special investigative techniques, particularly those requiring technological sophistication. This is a prudent move, given the inherently concealed and digitized nature of human trafficking crimes. However, the law does not fully align human trafficking with the high-risk criminal typologies that benefit from the Code's most advanced procedural mechanisms.
2. Recognition of Collective Legal Standing for Associations: Beyond enabling direct victim access to justice, the law permits accredited civil society actors—particularly those focused on human rights, child welfare, and gender-based protection—to file complaints and join as civil parties. This institutionalizes a form of collective litigation legitimacy, reinforcing community-based legal responses to systemic exploitation.
3. Ambiguity in Local Jurisdiction Provisions: While Law No. 23-04 introduces a victim-centered approach to local jurisdiction—anchoring it in the place of residence or elected domicile of the victim—it fails to clarify whether such jurisdictional extensions apply to all procedural actors (e.g., public prosecutors, investigative

judges). The reference remains confined to courts alone, generating interpretive uncertainty regarding enforcement scope.

4. **Incompleteness in Search Regulations:** Although the law permits nocturnal searches of residential premises without time constraints—deviating from the general rule under Article 47 of the Code of Criminal Procedure—it neglects to regulate other crucial aspects such as the presence of the occupant during the search, or the applicability of exceptions granted in other severe crimes.
5. **Unelaborated Use of Special Investigative Methods:** Judicial police officers are empowered to employ non-traditional investigative measures, including cyber techniques such as electronic infiltration, surveillance, and digital tracking. Yet, the law fails to outline the procedural protocols or safeguards surrounding these methods, nor does it provide for mandatory training in digital forensic competencies—raising serious concerns about procedural legality and evidentiary admissibility.

In light of the foregoing findings, the following recommendations are proposed to consolidate the procedural integrity of the legal response to human trafficking:

1. **Full Procedural Integration:** The legislator should explicitly incorporate all procedural guarantees and mechanisms applicable to the seven major crimes—as defined in the Code of Criminal Procedure—into the anti-trafficking legal framework. Given that human trafficking exhibits equivalent (if not greater) danger to public order, human dignity, and institutional legitimacy, the restriction of enhanced procedures to only a subset of trafficking cases is both illogical and legally deficient.
2. **Clarification and Expansion of Jurisdictional Reach:** The law must be amended to extend the special local jurisdiction provisions—currently reserved for trial courts—to encompass public prosecutors, investigative magistrates, and judicial police officers. This would ensure coherent procedural authority across the criminal justice chain, avoiding jurisdictional fragmentation.
3. **Codification of Electronic Surveillance Protocols:** A dedicated legislative annex should delineate the procedural rules, technical requirements, and oversight mechanisms associated with electronic surveillance and interception methods. Moreover, judicial police officers should be institutionally trained in cyber-investigation and assisted by specialized digital forensics experts.
4. **Inclusion of Electronic Search Powers:** Given the increasing prevalence of digital evidence in trafficking operations, the law's silence on electronic searches is both unjustifiable and detrimental. This omission is all the more striking when contrasted with the authorizations granted for far less severe crimes. Legislators must correct this inconsistency and provide a robust framework for virtual searches that respects constitutional guarantees.

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